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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,148	04/12/2005	Yoshiaki Tajima	07200/065001	4719
22511	7590	01/02/2008		
OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010			EXAMINER WALCZAK, DAVID J	
			ART UNIT 3751	PAPER NUMBER
			NOTIFICATION DATE 01/02/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/531,148

Applicant(s)

TAJIMA, YOSHIAKI

Examiner

David J. Walczak

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/20/05 and 11/21/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election of Species

Applicant's election without traverse of Species I in the reply filed on 11/21/07 is acknowledged. The Applicant contends that claims 1-3, 7 and 8 are readable thereon. Accordingly, claims 1-3, 7 and 8 will be examined herein and claims 4-6 and 9-20 are hereby withdrawn from further consideration at this time.

Information Disclosure Statement

The information disclosure statements (IDSs) submitted on 5/20/05 and 11/21/07 have been considered. It is noted that the references cited on the IDS filed 11/21/07 have been lined through since these reference were already cited in the IDS filed 5/20/05.

Abstract

The abstract of the disclosure is objected to because phrase that can be implied, such as "There is provided" should not be present therein. Further, the current abstract is too long. A properly drafted abstract should be limited to 15 lines/150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claim 1 is objected to because of the following informalities: On line 12 of claim 1, the phrase "for water tight provided" is unclear. It appears that this should read

"...for a water tight connection is provided between..." Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. An antecedent basis for "the surface on the partitioning wall that supports the elastic member" has not been defined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kay. In regard to claim 1, Kay discloses a container with an application tool (see Figures 3A and 3B) comprised of a main body 1 having a storage part and a neck portion having a communicating port in communication with the storage part, an application tool (defined by elements 3, 4 and the element in the neck adjacent element 8) whose back end is inserted into the neck part and that is axially movably connected to the neck part (element 3 and 4 are movable relative to the neck), a valve seat 18 on the back of the application tool head, a partitioning wall (the lower horizontal flange portion of element 8) positioned in the neck and that partitions the communicating port, a valve body 21 for the valve seat which protrudes upward from the partitioning wall and

which has a lead out hole 9 for leading the product from the storage part and a ring shaped elastic member 5 between the partitioning wall and the tool head which provides a water tight connection therebetween wherein the elastic member urges the tool head so the valve seat separates from the valve body and the elastic member elastically deforms so that the valve seat is in proximity or in contact with the valve body when the tool head is pressed backwards. In regard to claim 2, the above defined tool head comprises a cylindrical holder which holds a coating member 4 and a pipe member (not numbered, see the element in Figures 3A and 3B connected to element 3 and extending into element 4) whose back part is fitted into the holder and whose front part is inserted into the coating member wherein the valve seat "is provided to the back part" of the pipe member. In regard to claim 3, a cap 6 has an engaging part for pushing portion 7 of the application tool backwards and is attached to the neck part of the main body wherein the elastic member deforms so that the valve seat and valve body operate as claimed. In regard to claim 7, a "protrusion" (the element contacting the upper rim of the neck) is "provided in continuity" with the top of the surface of the partitioning wall wherein the protrusion supports the elastic member. In regard to claim 8, the cap 6 defines a stopper on the neck part that will prevent the tool head from being released.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Keating et al., Spatz and Schwartzman references are cited for disclosing other structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
12/12/07